

ATTACHMENT A
**TO THE [PROPOSED] ORDER GRANTING MOTION BY
DIRECT ACTION PLAINTIFFS TO ISSUE A LETTER OF REQUEST FOR
INTERNATIONAL JUDICIAL ASSISTANCE TO PRODUCE DOCUMENTS IN
FRANCE**

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re: CATHODE RAY TUBE (CRT) ANTITRUST
LITIGATION

Master File No. 3:07-cv-05944 SC
MDL No. 1917

This Document Relates To:

Sharp Electronics Corp., et al. v. Hitachi Ltd., et al.,
No. 13-cv-01173;

*Electrograph Sys., Inc. et al. v. Technicolor SA, et
al.*, No. 13-cv-05724;

Siegel v. Technicolor SA, et al., No. 13-cv-05261;

Best Buy Co., Inc., et al. v. Technicolor SA, et al.,
No. 13-cv-05264;

Target Corp. v. Technicolor SA, et al., No. 13-cv-
05686;

Interbond Corp. of America v. Technicolor SA, et al.,
No. 13-cv-05727;

Office Depot, Inc. v. Technicolor SA, et al., No. 13-
cv-05726;

Costco Wholesale Corp. v. Technicolor SA, et al.,
No. 13-cv-05723;

*P.C. Richard & Son Long Island Corp., et al. v.
Technicolor SA, et al.*, No. 13-cv-05725;

*Schultze Agency Servs., LLC v. Technicolor SA, Ltd.,
et al.*, No. 13-cv-05668;

*Sears, Roebuck and Co. and Kmart Corp. v.
Technicolor SA*, No. 13-cv-05262;

Tech Data Corp., et al. v. Hitachi, Ltd., et al., No.
13-cv-00157;

Crago, et al. v. Mitsubishi Electric Corp., et al., No.
14-cv-02058.

**LETTER OF REQUEST TO THE
COMPETENT AUTHORITY FOR
FRANCE**

**LETTER OF REQUEST FOR
INTERNATIONAL JUDICIAL
ASSISTANCE PURSUANT TO THE
HAGUE CONVENTION OF 18
MARCH 1970 ON THE TAKING OF
EVIDENCE ABROAD IN CIVIL OR
CRIMINAL MATTERS**

TO: Ministère de la Justice
 Direction des Affaires Civiles et du Sceau
 Bureau de l'entraide civile et commercial international
 (D3)
 13, Place Vendôme
 75042 Paris Cedex 01

FROM: The United States District Court for the Northern District of California

The United States District Court for the Northern District of California presents its complements to the French Central Authority, or other office as is appropriate, and requests international judicial assistance to obtain evidence to be used in a civil action pending before the Northern District of California entitled *In re Cathode Ray Tube (CRT) Antitrust Litigation*, Master File No. 3:07-cv-5944 SC, MDL No. 1917 ("the Action"). It has been demonstrated to us that justice cannot completely be done amongst the parties without the production of the documents listed in section (9) below, which are located in France within your jurisdiction. In conformity with Article 3 of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters ("the Hague Convention"), the undersigned applicant has the honor to submit the following request.

1. <i>Sender</i>	United States District Court for the Northern District of California San Francisco Division 450 Golden Gate Avenue San Francisco, California 94102 U.S.A.
2. <i>Central Authority of the Requested State</i>	Ministère de la Justice Direction des Affaires Civiles et du Sceau Bureau de l'entraide civile et commercial international (D3) 13, Place Vendôme 75042 Paris Cedex 01 France
3. <i>Person to whom the executed request is to be returned</i>	Craig A. Benson Paul, Weiss, Rifkind, Wharton & Garrison LLP 2001 K Street, N.W. Washington, DC 20006 U.S.A.

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2	4. <i>Reason for urgency</i>	The urgency in seeking the production of Thomson SA's documents is due to the closure of fact discovery in the United States on September 5, 2014, pursuant to the Court's scheduling order. Plaintiffs seek to obtain and review Thomson SA's documents in a sufficiently expedited fashion to develop evidence of jurisdiction over Thomson SA as well as evidence of Thomson SA's participation in the global price-fixing conspiracy involving cathode ray tubes. Plaintiffs also seek to obtain and review such documents to determine whether any additional documents are needed before the close of discovery and still have time to obtain any such documents.
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10	5. a. <i>Requesting judicial authority</i>	United States District Court for the Northern District of California San Francisco Division 450 Golden Gate Avenue San Francisco, California 94102 U.S.A.
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13	b. <i>To the competent authority</i>	France
14	c. <i>Names of the case and any identifying number</i>	<i>In re Cathode Ray Tube (CRT) Antitrust Litigation</i> , Case No. 3:07-cv-05944-SC, MDL No. 1917 (N.D. Cal.)
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16	6. <i>Names and addresses of the parties and their representatives:</i>	
17	a. <i>Plaintiffs' Representatives</i>	<u>Counsel for Sharp Plaintiffs</u> Kenneth A. Gallo Joseph J. Simons Craig A. Benson PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP 2001 K Street, NW Washington, DC 20006 Telephone: (202) 223-7300 Stephen E. Taylor Jonathan A. Patchen TAYLOR & COMPANY LAW OFFICES, LLP One Ferry Building, Suite 355 San Francisco, California 94111 Telephone: (415) 788-8200 <u>Counsel for Costco Plaintiffs</u> David J. Burman Cori G. Moore Eric J. Weiss Nicholas H. Hesterber
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b. Defendant's Representatives

Counsel for Defendant Thomson SA

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p><i>c. Defendant</i></p>	<p>Kathy L. Osborn Ryan M. Hurley Faegre Baker Daniels LLP 300 N. Meridian Street, Suite 2700 Indianapolis, Indiana 46204 Telephone: (317) 237-0300</p> <p>Jeffrey S. Roberts Faegre Baker Daniels LLP 3200 Wells Fargo Center 1700 Lincoln Street Denver, Colorado 80203 Telephone: (303) 607-3500</p> <p>Stephen M. Judge Faegre Baker Daniels LLP 202 S. Michigan Street, Suite 1400 South Bend, Indiana 46601 Telephone: (574) 234-4149</p> <p>Calvin L. Litsey Faegre Baker Daniels LLP 1950 University Avenue, Suite 450 East Palo Alto, California 94303-2279 Telephone: (650) 324-6700</p> <p><u>Defendant Thomson SA (n/k/a Technicolor SA)</u> 1-5 Rue Jeanne d'Arc 92130 Issy-les-Moulineaux France</p>
<p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>7. a. <i>Nature of the proceedings</i></p>	<p>This is a case in the United States District Court for the Northern District of California based on complaints filed in separate actions by the following Plaintiffs: Electrograph Systems, Inc.; Electrograph Technologies, Corp.; Alfred H. Siegel (as trustee of the Circuit City Stores, Inc. Liquidating Trust); Best Buy Co., Inc.; Best Buy Purchasing LLC; Best Buy Enterprise Services, Inc.; Best Buy Stores, L.P.; BestBuy.com, L.L.C.; Magnolia Hi-Fi, Inc.; Interbond Corporation of America; Office Depot, Inc.; Costco Wholesale Corporation; P.C. Richard & Son Long Island Corporation; ABC Appliance, Inc.; MARTA Cooperative of America, Inc.; Schultze Agency Services, LLC, (on behalf of Tweeter Opco, LLC, and Tweeter Newco, LLC); Sears Roebuck and Co. and Kmart Corp.; Target Corp.; Sharp Electronics Corporation and Sharp Electronics Manufacturing Company of America, Inc., (collectively, "Sharp"); Tech Data Corporation and Tech Data Product Management, Inc. (collectively, "Tech Data"); Crago, d/b/a Dash Computers, Inc.; Arch Electronics, Inc.; Meijer, Inc.; Meijer Distribution, Inc.; Nathan Muchnick, Inc.; Princeton Display Technologies, Inc.; Radio</p>

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b. Summary of complaint

& TV Equipment, Inc.; Studio Spectrum, Inc.; and, Wettstein & Sons, Inc., d/b/a Wettstein's. Each of these complaints asserts claims for damages and injunctive relief under the antitrust laws of the United States and under the antitrust and fair competition laws of California and New York.

Plaintiffs brought these actions for damages and injunctive relief under the antitrust laws of the United States to recover on account of the antitrust injuries they suffered as a result of a long-running conspiracy by suppliers of cathode ray tubes ("CRTs") to coordinate and fix the prices of CRTs and exchange detailed competitive information. The complaints allege that Thomson SA, other defendants, and co-conspirators formed an international cartel that conducted a long-running conspiracy extending at a minimum from March 1, 1995, through at least December 2007. The purpose and effect of this conspiracy was to fix, raise, stabilize, and maintain prices for CRTs. Plaintiffs allege that Thomson SA participated in this conspiracy with at least the following companies: Hitachi, LG Electronics, LG Philips Displays, Panasonic, MTPD, BMCC, Samsung SDI, Toshiba, Philips, Orion, Videocon, and Mitsubishi. Plaintiffs' allegations are closely similar to those that appear in the European Commission decision imposing €1,470,515,000 in penalties against the following aforementioned defendants: LG Electronics, Philips, Samsung SDI, Panasonic, Toshiba, MTPD, and Technicolor (formerly Thomson). *See* Press Release, Commission fines producers of TV and computer monitor tubes €1.47 billion for two decade-long cartels (Dec. 5, 2012), *available at* http://europa.eu/rapid/press-release_IP-12-1317_en.htm.

c. Other necessary information

On March 15, 2013, Sharp filed a complaint naming Thomson SA as a Defendant, and on April 2, 2014, a Second Amended Complaint also naming Thomson SA as a Defendant. The other aforementioned Plaintiffs have also filed complaints or amended complaints, which are now pending in this multidistrict litigation. The parties have also agreed to a joint stipulation whereby fact discovery shall be completed by September 5, 2014.

Direct Action Plaintiffs served its First Set of Requests for Production of Documents to Thomson SA on April 14, 2014, seeking production of certain categories of documents pursuant to Federal Rule of Civil Procedure 34.

	<p>Thomson SA objected to Direct Action Plaintiffs' Request for Production of such documents on several grounds, including that the requests contravene applicable principles of public policy and international comity. <i>See</i> Thomson SA's Responses to Direct Action Plaintiffs' First Set of Requests for Production of Documents (May 14, 2014). Thomson SA has stated that certain documents which "originated and remain located in France" may only be discovered "in accordance with French law by following the procedures of the Hague Convention." <i>See</i> Letter from Kathy L. Osborn to Craig A. Benson re: <i>In re CRT Antitrust Litigation</i>, Case No. 07-cv-5944-SC (N.D. Cal.) (July 14, 2014). Thomson SA has additionally furnished Direct Action Plaintiffs with a 2008 letter from a legal advisor in the French Ministry of Foreign Affairs that asserts that the Hague Convention "seems to me likely to apply in this case." Letter from E. Belliard to M.A. Debon, Thomson SA (Mar. 7, 2008). Thomson SA has also represented to Direct Action Plaintiffs that the French "blocking statute" (Loi 80-538 (July 17, 1980)); a 2007 decision by the French Court of Cassation, <i>In re Advocat Christopher X</i>, Cour de Cassation [Cass. Crim.], Paris, Dec. 12, 2007, Juris-Data No. 2007-83228 (Fr.); and a data privacy law (Loi 78-17 (Jan. 6, 1978), all in combination with the 2008 letter, bar production of any documents or commercial information not already otherwise in the United States, unless requests are made through Hague Convention procedures. <i>See</i> Letter Memorializing Meet & Confer from Craig A. Benson to Kathy L. Osborn (June 11, 2014).</p>
<p>8. a. <i>Evidence to be obtained or other judicial act to be performed</i></p> <p>b. <i>Purpose of the evidence or judicial act sought</i></p>	<p>It is respectfully requested that a judicial authority of France compel Thomson SA to produce the documents listed in Section 9, below.</p> <p>The requested documents enumerated below have a direct and precise link to the allegations in this case. Plaintiffs cannot thoroughly prosecute their antitrust claims against Thomson SA without the information that they have requested. The information that Thomson SA produced to the European Commission relate to the same CRT conspiracy alleged in this case. The European Commission fined Thomson SA's successor corporation, Technicolor SA, €38,631,000 for its role in a global CPT conspiracy between March 1999 and September 2005. Likewise, any conspiracy-related communications or meetings between Thomson SA and other CRT manufacturers bear directly on Thomson SA's liability for the antitrust harm to Plaintiffs caused</p>

1		by the conspiracy. Information relating to Thomson SA's relationship with Thomson Consumer is crucial to DAPs' ability to prove that the Court has jurisdiction over Thomson SA.
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3	9. <i>Documents or other property to be inspected</i>	Plaintiffs seek to obtain from Thomson SA the following categories of documents in accordance with the relevant procedures:
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5		1. All Documents relating to Communications regarding CRTs between or among manufacturers of CRTs, including Defendants.
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7		2. All Documents relating to any Communication between You (or any other Defendant or Co-conspirator) and any other manufacturer of CRTs concerning, relating to, and/or mentioning the production, marketing, pricing, distribution, inventory levels or sale of CRTs.
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9		3. All Documents relating to any Meeting attended by You or any other Defendant or any manufacturer of CRTs during which there was any Communication concerning the production, marketing, pricing, distribution, inventory levels or sale of CRTs, including, but not limited to the notes of any such Meetings.
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11		4. All Documents relating to any contemplated, proposed, planned, pending or executed purchases, sales, acquisitions, mergers, joint ventures, divestitures, transfers, spin-offs or any other change in ownership of any assets, liabilities, subsidiaries, departments, units or other subdivisions of Your or another company relating to production, distribution, marketing, pricing, sale or resale of CRTs during the Relevant Period.
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13		5. Documents relating to Your investment in Videocon Industries, Ltd. during the Relevant Period, including Communications with Videocon Industries, Ltd., financial statements, financial forecasts, and business plans.
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15		6. All Documents reflecting Communications between You and any of the following entities: (a) Thomson Consumer; (b) Technologies Displays; (c) Videocon Industries, Ltd.; (d) Any other Affiliated Entity of You or (a)-(c) above; relating to
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1		or reflecting the price or negotiation of prices for any such sale, purchase, or transfer of any CRTs.
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3		7. Copies of all subpoenas or requests for production of Documents issued to Thomson SA by any foreign governmental or legislative investigative body referring or relating to CRTs during the Relevant Period.
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6		8. All Documents relating to, prepared for, submitted to, or received from any foreign governmental or legislative investigative body, including the Canadian Competition Bureau, the European Commission, any agency or representative body of any foreign country, state or other political subdivision, or any law enforcement agency, authority or commission in any foreign country, relating to the production, sale, marketing, pricing or distribution of CRTs. This request includes all Documents relating to proffers, transcripts, notes, summaries, testimony, witness statements, or responses to requests for information that Thomson SA produced to any foreign governmental agency or foreign grand jury, including any Documents produced as part of any plea bargain negotiations or in connection with any application for or grant of amnesty.
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17		9. All Documents related to Thomson SA's rental, lease, purchase, maintenance, or ownership of offices or manufacturing facilities in the United States during the Relevant Period that were related to the manufacture or sale of CRTs or CRT Products.
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21	10. <i>Special methods or procedure to be followed</i>	It is requested that the aforementioned categories of documents be collected from Thomson SA in the Republic of France and by a person authorized under the applicable law as permitted by the relevant authority in the Republic of France.
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24	11. <i>Request for notification of the time and place for execution of the Request and identity and address of any person to be notified</i>	Please notify the attorneys representing the aforementioned Plaintiffs and Defendant Thomson SA as identified in paragraphs 6(a) and (b) above, of the date, time, and place of execution of the request.
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27	12. <i>The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under</i>	Plaintiffs express a willingness to reimburse the judicial authorities of the Republic of France for costs incurred in executing the requesting court's
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Article 26 of the Convention will be borne by	letter of request.
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Date of request: _____, 2014

Signature and seal of the requesting authority:

 United States District Judge
 United States District Court for the Northern District of California
 San Francisco Division
 450 Golden Gate Avenue
 San Francisco, C.A. 94102
 U.S.A.

I hereby certify that the signature above is that of the
 Honorable _____,
 United States District Judge of the United States District Court
 for the Northern District of California

 Clerk of the Court

By: _____

Deputy Clerk:

Seal: